

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 10-0161

FILED

AUG 03 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

BNSF RAILWAY COMPANY, a Delaware
corporation,

Petitioner and Appellant,

v.

ORDER

CHAD CRINGLE; MONTANA DEPARTMENT OF
LABOR AND INDUSTRY, and HUMAN RIGHTS
COMMISSION,

Respondents and Appellees.

Before this Court is BNSF Railway Company's (BNSF) Motion for Relief from District Court's Order Denying its Motion for Stay of Execution of Judgment and Request for Approval of Supersedes Bond. BNSF has appealed from the District Court's March 15, 2010 Order and March 29, 2010 Nunc Pro Tunc Order of dismissal and from the court's Judgment entered on April 9, 2010, awarding monetary and non-monetary relief to Chad Cringle (Cringle), respondent in the underlying action, in the First Judicial District Court, Lewis and Clark County, Cause No. BDV-2009-1016. BNSF moved for a stay of execution pending appeal and a request for approval of supersedes bond. Cringle objected and the District Court summarily denied BNSF's motion. BSNF asks this Court to now step in and issue the stay order and order approving its offered supersedes bond.

Cringle opposes BNSF's motion, arguing that he is entitled to the benefit of his judgment against BNSF pending appeal and cites to the District Court's knowledge of the facts of the underlying case—involving a discrimination claim by Cringle against BNSF—and Cringle's desperate financial circumstances and need for the monetary relief he was awarded.

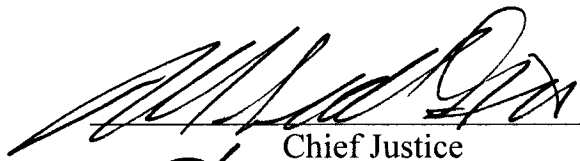
On June 23, 2010, we entered our Order directing the District Court to enter findings of fact, conclusions of law and an order complying with M. R. App. P. 22(1)(b)

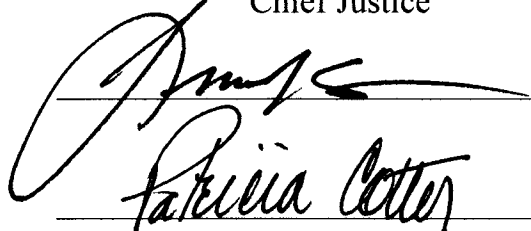
and (d). The court did so on July 13, 2010. Having now considered the District Court's detailed findings of fact and conclusions of law and the supplemental briefs we permitted to be filed, we conclude that the District Court did not abuse its discretion¹ denying BNSF's motion to stay execution of judgment and approval of its supersedeas bond and in vacating its June 11, 2010 order. Likewise, we are not persuaded by BNSF's arguments here. BNSF has not demonstrated good cause for the relief it requests. M. R. App. P. 22(2)(a)(i). Effectively BNSF asks us to assume the merits of its case on appeal. We decline to do so. Therefore,

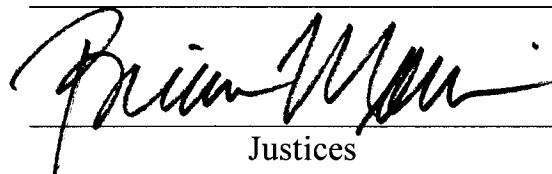
IT IS ORDERED that BNSF's June 1, 2010 Motion for Relief from District Court's Order Denying Its Motion for Stay of Execution of Judgment and Request for Approval of Supersedeas Bond is DENIED.

The Clerk of this Court is directed to give notice of this Order to counsel of record and to the Hon. Jeffrey M. Sherlock, District Judge Presiding.

Dated this 3rd day of August, 2010.


Chief Justice


Patricia Cotter


Justices

¹ See *Poulsen v. Treasure State Indust.*, 183 Mont. 439, 442, 600 P.2d 206, 207-208 (1979) (district court's decision to grant or deny a stay of execution and supersedeas bond is reviewed for abuse of discretion).